

ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

1600.24D

10/10/95

LISTENING-IN TO OR RECORDING CONVERSATIONS ON TELEPHONE OR
SUBJ: TELECOMMUNICATIONS SYSTEMS

1. **PURPOSE.** This order revises and updates the policy of the Federal Aviation Administration (FAA) with regard to monitoring and/or listening-in to conversations on telephone or telecommunications systems. It implements provisions of the Federal Information Resources Management Regulation (FIRMR) (Title 41 CFR Part 201-21.603) and Order DOT 1600.17B, Use of Recording or Monitoring Equipment, Practices, and the Listening-in or Recording of Telephone Conversations, dated September 21, 1990.

2. **DISTRIBUTION.** This order is distributed to the branch level in Washington headquarters, regions, centers, and overseas area offices, with a standard distribution to each field office and facility.

3. **CANCELLATIONS.**

a. Order 1600.24C, Use of Recording or Monitoring Equipment and Practices, dated April 26, 1978, is canceled.

b. Annual Report of Recording or Monitoring Equipment and Practices (RIS:SE-1600-26) is canceled.

4. **BACKGROUND.** The FIRMR describes the circumstances under which agencies are authorized to listen-in to or record telephone conversations. It applies to consensual listening-in or recording that takes place when at least one party to a telephone conversation knows that recording or monitoring is taking place and has given his or her prior consent. The FIRMR does not apply to listening-in or recording that is nonconsensual and done without the knowledge of any of the parties to the conversation. Nonconsensual recording and monitoring is governed by the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), United States Intelligence Activities, Executive Order 12333, or any successor order.

5. **EXPLANATION OF CHANGES.**

a. The title of the order has been changed.

b. The purpose paragraph has been modified to cite the appropriate Code of Federal Regulations (CFR.)

c. A background paragraph has been added to explain the scope of the FIRMR and its relation to telephone system monitoring other than consensual.

d. The definitions portion has been expanded and transferred to an appendix.

e. A responsibilities paragraph has been added to include responsibilities of the Associate Administrator for Civil Aviation Security.

f. Requirements for maintaining accurate records have been revised and updated in light of current organizational changes.

g. The Annual Report of Recording or Monitoring Equipment and Practices (RIS:SE-1600-26) is not continued. In its place, this directive provides for a memorandum listing of recording and monitoring equipment to be submitted on an annual basis. The memorandum approach is more cost effective and achieves economies in eliminating the need for maintaining special forms to report the same information.

h. The Office of Civil Aviation Security Operations (ACO) is assigned the responsibility for preparation and submission of the consolidated listing of recording and monitoring equipment.

6. **DEFINITIONS.** The key terms used in this order are defined and explained in Appendix 1, Glossary.

7. **RELATED PUBLICATIONS.** Prohibitions against recording or monitoring of telephone conversations by FAA employees are addressed in paragraph 215, in the latest edition of Order 3750.4, Conduct and Discipline. Paragraph 216 of the same order prescribes duties of FAA employees to report violations. Surreptitious recording of interviews is prohibited by paragraph 6-5f, Order 1600.20B, Civil Aviation Security Investigations Handbook.

8. **AUTHORITY TO CHANGE THIS ORDER.** The Associate Administrator for Civil Aviation Security (ACS-1) is authorized to issue changes to the appendices to this order.

9. **POLICY.** It is the policy of FAA that employees, contractor personnel, and military representatives assigned to FAA shall not listen-in to or record conversations on any General Services Administration (GSA) provided telephone system, any telephone system acquired under a delegation of GSA procurement authority, or any telecommunications system approved in accordance with the Federal Property and Administrative Services Act of 1949, as amended, except as provided for in the FIRMR and this order for activities involving law enforcement, national security, public safety, special situations where a Federal employee has a disability, public service monitoring, and where all parties consent.

10. **DETERMINATION.** A determination as used in this order means a written justification signed by the Administrator or his/her designee that specifies the operational need for listening-in to or recording telephone conversations. The determination shall indicate the specific system and location where monitoring is to be performed and list the number of telephones or recorders involved. The determination shall also establish the operating times and the expiration date for the monitoring.

11. **FAA DETERMINATIONS.** FAA officials authorized by this order to make determinations shall not make a favorable determination regarding need for consensual listening-in or recording of conversations on the Federal Telecommunications System (FTS) or any other telephone or telecommunications system approved in accordance with the Federal Property and

Administrative Services Act of 1949, as amended, except under the conditions specified in the following paragraphs and Appendix 3, Procedures.

12. LAW ENFORCEMENT, NATIONAL SECURITY, AND COUNTERINTELLIGENCE. The FIRMR provides for recording and monitoring of conversations when performed for law enforcement, counterintelligence, or communications security purposes in accordance with procedures established by the agency head. These procedures shall be in conformance with applicable laws, regulations, DOT directives, and executive orders governing such activities. (Refer to 41 CFR Part 201-21.603(c)(1) and appendix 3.)

a. No determination shall be made by an FAA official for recording or monitoring of this nature within the FAA without the prior approval of ACS-1.

b. Prior to approving a determination for this type of operation, ACS-1 shall coordinate with the OST Director, Office of Security, M-70, for approval to ensure that all DOT requirements have been addressed.

13. PUBLIC SAFETY. FAA employees engaged in public safety activities such as air traffic control (ATC) are authorized to conduct consensual recording and monitoring of conversations in pursuance of their official duties provided the recording and monitoring have been documented prior to implementation by a determination approved by the Secretary of Transportation or his/her designee citing the public safety needs.

a. The determination may be in the form of a notice in the Federal Register, an FAA manual or order signed by the Administrator or his/her designee, or other type of official publication available to the general public and used to disseminate public policy and procedures.

b. The determination shall identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of public safety activities are police and fire department operations, FAA command centers, and ATC services.

14. RESPONSIBILITIES.

a. THE ASSOCIATE ADMINISTRATOR FOR CIVIL AVIATION SECURITY (ACS-1) is responsible for:

(1) Ensuring that the provisions of this order are implemented agencywide.

(2) Making the determination in writing regarding approval for installation of devices for recording and/or monitoring of conversations on telephone systems within the ACS organization at both headquarters and field locations.

b. OFFICE OF CIVIL AVIATION SECURITY OPERATIONS (ACO) is responsible for:

(l) Monitoring and oversight of the implementation of the provisions of this order agencywide and for maintaining accurate records of the usage of recording and monitoring equipment.

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APPENDIX 1. GLOSSARY

1. **Consensual.** At least one party to a telephone conversation knows it is happening or has given prior consent. (FIRMR 41 CFR Part 201-21.603(b).)
2. **Determination.** A determination as used in this order means a written justification signed by the agency head or the agency head's designee, that specifies the operational need for listening-in to or recording telephone conversations, indicates the specific system and location where monitoring is to be performed, lists the number of telephones or recorders involved, establishes operating times, and an expiration date for the monitoring.
3. **Listening-in Devices.** Devices that can intercept any telephone communication and can be used to listen-in or record telephone conversations without the knowledge of one or more of the parties to the conversation.
4. **Nonconsensual Recording or Monitoring.** Listening-in or recording of telephone conversations done without the knowledge of any of the parties to the conversation. (FIRMR 41 CFR Part 201-21.603(b).)
5. **Service Monitoring.** The monitoring of telephone conversations by supervisors to determine the quality of service being provided to the public.
6. **Telecommunications.** Telecommunications services means the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means. The term includes the telecommunications facilities necessary to provide such services.
7. **Transmitter Cut-Off Switch or Push-to-Talk Switch.** A feature that can be added to a telephone instrument which permits an individual to listen to an incoming signal, which will prevent the transmission of an outgoing signal until such time as the transmitter portion of the telephone instrument is activated.

**APPENDIX 2. CONSOLIDATED LISTING OF RECORDING AND MONITORING
DEVICES**

1. **Purpose.** This appendix provides guidance on the format to be used for submitting the required information concerning telephone monitoring and recording devices that fall within the purview of this order.

2. **Requirement.** Order 1600.24D requires that officials exercising determination approval authority, as defined in the order, submit to ACS an annual consolidated statement listing the number, costs, justification, and precise location of each message announcing or recording device and transmitter cutoff switch that has been approved for use. If there is any doubt as to whether or not a specific device should be included in the annual listing, guidance should be obtained from the appropriate servicing security element (SSE) or ACO-400.

3. **Approach.** The annual listing shall be submitted using a memorandum format with attachment, as indicated in Figures 1 and 2.

APPENDIX 2. CONSOLIDATED LISTING OF RECORDING
AND MONITORING DEVICES
FIGURE 1. SAMPLE OF MEMORANDUM FORMAT



U.S. Department
of Transportation
Federal Aviation
Administration

Memorandum

Subject: **INFORMATION:** Consolidated Listing of Recording and Monitoring Devices for (Enter Calendar Year).

Date:

From: (Identification of Region, Center, Office or Headquarters Submitting Information)

**Reply to
Attn. of:**

To: Office of the Associate Administrator for Civil Aviation Security, ACS-1
THRU: ACO-400

In accordance with the provisions of Order 1600.24D, forwarded as attachment is a complete and current listing of all telephone recording and monitoring devices for which approval determination has been made within this (region, center, Washington headquarters, etc.).

A copy of this information has been provided to the servicing security element.

(Signature of the official having
determination approval authority.)

Attachment

APPENDIX 3. PROCEDURES

1. **NONCONSENSUAL RECORDING/MONITORING.** **Nonconsensual listening-in or recording** of telephone conversations shall be authorized and handled in accordance with the requirements of the Omnibus Crime Control and Safe Streets Act of 1968 as amended (18 U.S.C. 2510 et seq.) and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

2. **CONSENSUAL RECORDING/MONITORING.** **Consensual listening-in or recording** of telephone conversations on the Federal Telecommunications System (FTS) or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, Sections 201(a)(1) and (3); Title 40 U.S.C. Sections 481(a)(1) and (3); and implementing regulations thereof is prohibited except under the following conditions:

a. **When performed for civilian and military law enforcement purposes** in accordance with the Attorney General's guidelines for administration of the Omnibus Crime Control and Safe Streets Act of 1968, and in accordance with procedures established by the Attorney General. Additional requirements for the documentation of monitoring activities pursuant to this Act are:

(1) The identity of the individual who approved this action must be documented in advance.

(2) An emergency procedure for use when advance approval is not possible. Emergency procedures shall be in accordance with the procedures established by the Attorney General.

(3) All actions taken shall be documented.

(4) An appropriate system of records administration and dissemination procedures shall be maintained.

(5) Quarterly reports shall be made to the OST, Assistant Secretary for Administration.

b. **When performed for counterintelligence purposes** and approved by the Attorney General or the Attorney General's designee.

c. **When performed by any FAA employee for public safety purposes** and when documented prior to implementation by a determination approved by the Administrator or his designee citing the public safety needs. The determination may be in

commonly referred to as transmitter cut-off switches or push-to-talk switches. These features shall not be obtained or used in FAA except where one of the following conditions exist:

(1) The telephone is located in a room or space where an unusually high level of background noise exists which would be transmitted over the line and seriously interfere with the telephone conversation.

(2) The telephone is located in a room or space where sensitive or classified information is routinely discussed or processed.

e. Line identification equipment may be installed in FTS telephone facilities to assist Federal law enforcement agencies to investigate threatening telephone calls, bomb threats, and other criminal activities provided that no invasion of privacy is involved, and the use of such equipment does not violate the Privacy Act of 1974 or any Federal or State wiretap laws; e.g., Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

f. Determinations are not required for automatic message receiving machines/features used to receive incoming calls provided they do not fall under the requirements of this appendix.

4. REPORTING VIOLATIONS. FAA employees who are aware of violations of this order or of failure to follow the procedures specified above shall report this information to their immediate supervisor, the SSE, or ACO-400, in accordance with the provisions of this order and paragraph 216 of Order 3750.4, Conduct and Discipline.